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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

Seminar on Immigration, Racism and Racial Discrimination

(Geneva, 5-9 May 1997)

Report of the Secretary-General

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I. INTRODUCTION

A. Organization of the Seminar

1. In accordance with resolution 49/146 dated 23 December 1994, by which the General Assembly adopted the revised Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (1993-2003), the High Commissioner for Human Rights/Centre for Human Rights organized a seminar on immigration, racism and racial discrimination, held in Geneva from 5 to 9 May 1997.

2. The purpose of the Seminar was to examine the various kinds of racism and racial discrimination now faced by immigrants and to recommend appropriate solutions. Many studies, including those carried out by the Special Rapporteur of the Commission on Human Rights on Racism, Racial Discrimination and Xenophobia and by the International Labour Organization, show that many countries have legislation and practices that discriminate against foreigners seeking work who live in or wish to settle in a country other than their own. Many countries authorize entry and residence on the basis of the nation or continent of origin of a visa applicant; access by immigrants to the labour market is regulated or affected by discriminatory criteria; obtaining nationality, which is a hallmark of better integration into the host country, is made difficult; xenophobia, spurred by talk of security, is gaining ground under the guise of nationalism or "national preference" and sometimes leads to violence.

B. Participants

3. The following experts were invited to prepare information papers and to take part in the Seminar to introduce their topics and lead the discussions: Mrs. Halima Embarek Warzazi, member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; Mr. Michael Banton, Chairman of the Committee on the Elimination of Racial Discrimination; Mr. Jean-Pierre Page, officer-in-charge of international relations and union activities, Confédération Générale du Travail; Mr. Tekin Akillioglu, Director of Research on Human Rights, University of Ankara (Turkey), member of the Committee of Independent Experts of the European Social Charter; Mr. Roger Zegers de Beijl, head of the Migration Branch, International Labour Organization; Mr. Héctor Dávalos Martínez, Secretary-General, National Commission of Human Rights, Mexico.

4. The following countries appointed experts to take part in the Seminar in their personal capacity: Albania, Argentina, Bangladesh, Bhutan, Brazil, Brunei Darussalam, Canada, Cuba, Dominican Republic, Egypt, El Salvador, Guatemala, Holy See, India, Japan, Jordan, Lebanon, Lithuania, Malawi, Malaysia, Malta, Mexico, Morocco, Norway, Poland, Qatar, Republic of Korea, Russian Federation, Senegal, Sri Lanka, Switzerland, Turkey, Ukraine, United Kingdom, Uruguay, Viet Nam.

5. Representatives of intergovernmental and non-governmental organizations also took part. The list of participants is contained in annex II.

C. Opening of the Seminar and election of the members of the Bureau

6. The work of the Seminar on Immigration, Racism and Racial Discrimination began on Monday, 5 May, at the Palais des Nations, Geneva, Switzerland.

7. The opening meeting was chaired by Mr. Ralph Zacklin, Officer-in-Charge, United Nations High Commissioner for Human Rights, who, as the representative of the Secretary-General, welcomed the fact that the Seminar was being held with a view to the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (1993-2003).

8. He said that the meeting was particularly important in view of the time at which it was being held and the situation prevailing in the world. It reflected the international community's concern about the topics under discussion.

9. He drew attention to the international instruments available for dealing with racism and racial discrimination, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, and expressed the hope that, in the near future, the Member States of the United Nations would ratify the latter legal instrument so that it might enter into force.

10. He also drew attention to the important role played by the International Labour Organization (ILO) in the conclusion and implementation of conventions for the protection of migrant workers.

11. He welcomed the firm determination of the United Nations and its specialized agencies to combat acts of racism and racial discrimination effectively and drew particular attention to resolutions 1997/13, 1997/14 and 1997/15, which had recently been adopted by the Commission on Human Rights at its fifty-third session.

12. Because of the importance of the topics that would be discussed and the presence of experts on those topics, the Seminar was sure to formulate recommendations on more effective action to combat racism and racial discrimination against migrants.

13. Following the statement by Mr. Ralph Zacklin, the work of the Seminar began. It was decided by consensus that the chairmanship of the Seminar would rotate daily among the experts present and Mr. Héctor Dávalos Martínez, Secretary-General of the National Commission of Human Rights of Mexico, was appointed as Rapporteur.

D. Programme

14. The Seminar adopted the following agenda:

1. Opening of the Seminar

2. Contemporary forms and manifestations of racism and racial discrimination

3. Globalization and immigration

4. National and international protection of immigrants

5. Protection of immigrants against discrimination in employment. Activities of the International Labour Organization (ILO)

6. Integration and/or preservation of immigrants' cultural identities in host countries

7. Conclusions and recommendations.

15. It was recalled that the timetable for the discussion of topics would be flexible so that all participants wishing to speak would be able to do so.

16. Prior to the introduction of the first topic, Mr. Michael Banton, Chairman of the Committee on the Elimination of Racial Discrimination, read out a document containing general comments on the Seminar. He described the various stages in the discussion of the question of racism and racial discrimination, noting that it is now time to look for new horizons for its discussion and for effective solutions. He referred to the nature of the political representation of immigrants, the specific weight they carry in modern-day international relations and the role they can play themselves or through the consulates of their countries, depending on their particular legal situation.

17. He drew attention to the importance of recommendations, such as those which would be adopted at the Seminar and would reflect the opinions of the participating experts and representatives of countries and intergovernmental and non-governmental organizations. Those opinions pass through another circuit; hence their importance and that of the nature of the problems with which they deal. The paradox is that, the more the protection of the human rights of migrants is promoted, the more discrimination there is because there is more competition for equality. There is an underlying danger that some population sectors might minimize the impact of discrimination, whose eradication requires not only political will, but also detailed knowledge of the problem and its implications.

18. Following Mr. Banton's statement, the participants expressed their views on the significance of the Seminar: they drew attention to the role of society at large in decision-making to deal with racism; indicated how the question of second-generation and third-generation migrants should be discussed; and noted that care should be taken with the vocabulary and terminology used in order to avoid misunderstandings.

E. Documentation

19. The Seminar had before it the following documents:

HR/GVA/DR/1997/SEM.2/BP.1 National protection of immigrants, prepared by Mr. Michael Banton

HR/GVA/DR/1997/SEM.2/BP.2	International protection of immigrants, prepared by Mrs. Halima Embarek Warzazi
HR/GVA/DR/1997/SEM.2/BP.3	Combating discrimination against migrant workers: international standards, national legislation and voluntary measures - the need for a multi-pronged strategy, prepared by Mr. Roger Zegers de Beijl
HR/GVA/DR/1997/SEM.2/BP.4	Integration and/or preservation of immigrants' identity in host countries: between goodwill and discrimination, prepared by Mr. Héctor Dávalos Martínez
HR/GVA/DR/1997/SEM.2/BP.5	Contemporary forms of racism and racial discrimination against immigrants, prepared by Mr. Tekin Akillioglu
HR/GVA/DR/1997/SEM.2/BP.6	Globalization and immigration (French only), prepared by Mr. Jean-Pierre Page

II. CONTEMPORARY FORMS AND MANIFESTATIONS OF RACISM AND RACIAL DISCRIMINATION

A. Introduction of the topic

20. The report on "Contemporary forms of racism and racial discrimination against immigrants" was prepared by Mr. Tekin Akillioglu, Director of Research on Human Rights, University of Ankara (Turkey), who said that there is an alarming upsurge of racism, xenophobia and intolerance, particularly in so-called democratic societies. Any form of racism involves discrimination and the new forms are predominantly economic; the "minority" of foreign workers are the new victims, while concealed discrimination is being committed against women.

21. He referred in detail to the many causes giving rise to racial discrimination, with some examples of its recent manifestations, especially in Europe. He drew attention to the seriousness of the social problem that is being created.

22. He drew attention to the salient features of legal protection for migrant workers and their families on the basis of the European Social Charter, which is, in his opinion, a suitable instrument for action to combat racism and racial discrimination in Europe. He described the protection provided to workers through equality of treatment under the Charter, which calls for positive and ongoing measures. He referred to the role played by the Committee of Independent Experts of the European Social Charter, whose resolutions are designed to give effect to the measures adopted against discrimination.

23. He drew attention to the advantages of trade union membership as a means of defence against discrimination for migrant workers. Examples of equality of treatment include access to housing, tax equality and access to the courts.

24. In conclusion, he proposed the establishment of individual remedies under the European Social Charter, since, although they are provided for in the United Nations Convention on the Elimination of All Forms of Racial Discrimination and the European Community Convention on the Protection of Human Rights and Fundamental Freedoms, they do not go far enough in dealing specifically with the problem. He gave various examples of the ineffectiveness of remedies and noted that, in view of the increasingly individual nature of social rights, it is not too early to think about the need for the establishment of an individual remedy procedure designed to enforce the principle of non-discrimination at the social level, which is the core of anti-racist legislation.

B. Discussion

25. Following the introduction, the Chairman, Mrs. Warzazi, said that certain points had to be made clear, since what had been done in Europe seemed to apply only to the member countries of the European Community. The expert replied that there are three levels of protection and that the European Social Charter is general in scope and is not intended only for nationals of member countries of the European Union.

26. He recalled that equality of treatment and non-discrimination are the cornerstones of the European Social Charter. An individual remedy has to be established at that level so that persons discriminated against may come before the Committee.

27. During the discussion, it was stated that machinery should be established that does not require diplomatic action, that sufficient publicity should be given to existing means of defence and that closed investigations should be made public or open so that they will be more effective. It was also recalled that undocumented workers do not have defence remedies and that, in most cases, they are afraid of the authorities and therefore do not approach them. How is the problem to be dealt with elsewhere than in Europe?

28. The Chairman said that the reason for the non-ratification of the International Convention on the Protection of All Migrant Workers and Their Families may be that many countries refuse to allow individual remedies. Information has to be made available in that regard. The discussion also related to the nature and effectiveness of penalties, as well as the effectiveness of the Committee's follow-up, the review procedure and all the procedures provided for by the European Social Charter.

29. During the discussion, the participants referred at length to racism as a starting point for racial discrimination and pointed out that the legal approach is the one that is the least changeable and that its use prevents racism from becoming widely accepted or fashionable.

III. GLOBALIZATION AND IMMIGRATION

A. Introduction of the topic

30. The topic of "Globalization and immigration" was introduced by Mr. Jean-Pierre Page, officer-in-charge of international relations and trade union activities, Confédération Générale du Travail.

31. Pointing out that the modern-day world is undergoing far-reaching geopolitical changes, he said that migratory flows and immigration are the core of a process in which the future of the twenty-first century is at stake. Although displacements of individuals and peoples have gone on throughout history, they have become as complex as the world itself. This complexity has a number of causes, including:

(a) The structural crisis of the developed capitalist economies and the problems involved in integrating international migrations into the socio-economic changes taking place at the global level. In addition, the increase in unemployment, the various types of labour instability and social exclusion that mainly affect immigrants and the weakening of systems of welfare and collective guarantees are heightening social tensions and conflict;

(b) The basic contradiction of liberal-style globalization, which is fostering movements of capital, goods and information, as opposed to those of people; this contradiction characterizes the European immigration policy;

(c) Underdevelopment is increasing. For decades, it has been growing dangerously worse and, as part of this process, the structural adjustment policies implemented by the World Bank and the International Monetary Fund in the countries of the southern hemisphere and in central and eastern Europe are having disastrous social consequences. The guidelines ordered and brutally imposed by the World Trade Organization and transnational corporations, such as the Multilateral Agreement on Investment, are helping to intensify negative phenomena and making demographic imbalances, unemployment and job insecurity, malnutrition and health, urbanization and environment problems all the more explosive each day. For example, what can be described as "ecological exoduses" are now taking place. There are other questions to be answered: is it always easy to tell the difference between an ecological refugee, a political refugee and a refugee from war or even a person who has emigrated voluntarily for economic reasons? Are the 900,000 Mexicans who enter the United States illegally each year economic or ecological emigrants? Do they cross the border because they are irresistibly drawn by the difference in wages in the two countries or are they forced to do so by the rapid deterioration of 60 per cent of their arable land that deprives them of 259,000 hectares of pasture land and wheat fields every year? Are the Senegalese and Malians who arrive in Europe by the thousands looking for the well-being of Western civilization or are they fleeing the harshness of sub-Saharan desertification, as shown by the case of the "people without papers" at St. Bernard Church in Paris? At present, nearly 25 million persons are affected by what has become one of the main causes of emigration from the countries of the South.

32. He also evaluated and situated various migratory flows. According to the World Bank, 100 million persons were living in a country other than their own in 1993. In recent years, moreover, migratory flows have intensified in Asia, Africa, the countries of the former eastern bloc and from Asia to other continents. Statistical studies show that migratory flows are universal.

33. Although there is heavy migratory pressure on developed countries, migrations vary in size from one region of the world to another and according to country. In the case of the European Union, for example, migration has been oriented towards the free movement of labour and, at the same time, each country in the Community is tempted to curb migration from outside the Community. The United Kingdom has continued to give priority to migration from the Commonwealth, while, in France, migration from former colonies has always been allowed more easily because priority is given to the nationals of countries whose political regime appears to be more favourable to France. In the case of France, account must also be taken of persons from overseas departments and territories, whose numbers do not figure in the statistics on foreigners.

34. The United States has also carried out a migratory policy based not only on specific manpower needs, but also on its economic and strategic interests. In the case of immigration from Israel, the Philippines and China, for example, the motivation is linked to strategic concerns. The opening of the North American market as a result of the North American Free Trade Agreement (NAFTA) and wage pressure has made Mexican migrants particularly attractive for United States employers. At present, attention is focusing on the brain drain and persons with particular skills in art, culture and science. The combination of all these interests has led the United States gradually to increase the overall immigration quota, not to mention the very large share accounted for by clandestine emigration, which is, as is well known, accompanied by particularly repressive measures, especially against persons from Mexico and those in the maquiladoras 1/ and other free trade areas.

35. Japan gives priority to the countries in which Japanese companies have decided to carry out productive investment programmes, such as the Philippines and Thailand.

36. Geographical mobility continues to increase because poverty is growing in the third world and despite the crisis, developed countries continue to look for more and more people. The strategy of transnational corporations and the policy of Governments converge along these lines, even though the brakes have been applied in some cases.

37. Apart from wage inequalities between North and South, the difference in levels of development may be explained by the impact of the growing external debt burden and its servicing, by the effects of variations and, in particular, by drops in the prices of raw materials and the decrease in productive public investment capacities. In this context, some consideration should be given to the problem of the nature of North-South relations as a result of immigration and, in particular, the content of cooperation between

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1/ Free trade areas located on the Mexico-United States border.

Europe and Africa. For example, the devaluation of the CFA franc forced many Africans to emigrate because it caused a 50 per cent drop in their purchasing power.

38. Obstacles to free market functioning cost the developing countries at least US$ 500 billion per year, or 10 times the amount they receive. Africa's per capita wealth has dropped by 30 per cent since the imposition of the structural adjustment plans. According to the World Bank, by 2002 50 per cent of Africans will be poor, and today one African in three, or nearly 200 million, are living on less than one franc per day.

39. Thus, if we do not settle the migration problem at its source, i.e. at the development and therefore employment level, we will inevitably be driven to erect higher and higher barriers, more and more police-like, more and more military in nature. France is a particularly significant case in this respect. To cope with its low demographic growth, first observed in the mid-eighteenth century, it was forced, in the early years of industrialization, to bring in foreign manpower. By the second half of the nineteenth century, it was already a country of immigration. There were 4.2 million immigrants in France in 1990. This figure has changed little since 1974, the increase being attributable mostly to family reunification. In 1977, an official French Government report entitled "Immigration et développement économique et social" emphasized the beneficial effects of immigration.

40. The implementation of the so-called Pasqua laws and the pressure from the need to harmonize French policy with European immigration policy, based on an Anglo-Saxon model, have also had extremely negative consequences for immigration. The 100,000 persons per year who immigrated to France before 1993, decreased to 49,000 in 1995. Entries for short-term stays, notably by students and asylum seekers, are also on the decline. The policy of denying entry mainly affects the right to family reunification and the right of asylum. There is nothing to indicate that clandestine immigration inflows, by definition impossible to evaluate statistically, decreased during the same period. The upsurge in clandestine immigration might even be in proportion with the harshness of the Government's policy since 1993. At the same time, the reception given to immigrants has led to an increase in irregular situations, as regular entries by permanent workers are declining: 13,000 in 1995 as against 25,000 in 1994. The decrease is primarily due to restrictions on family reunification (14,000 as against 35,000 previously) and the right of asylum (4,000 as against 15,000). Yet these legal categories are based on the international obligations France has assumed, the constitutional guarantees it has established, the values it aims to respect and the role it wishes to play in the world, especially the French-speaking world.

41. Although the Maastricht Treaty transfers certain prerogatives to the European Union, immigration rules remain a matter for the States under the Schengen Agreement, which entered into force on 26 March 1995. The rate of execution of deportation decisions, more than 40,000 per year, rose from 22 per cent to 28 per cent in 1996. Other figures for the same time period illustrate the regressive nature of the French immigration policy. For example, following the reform of the Nationality Code in 1993, the number of French naturalizations dropped from 126,000 in 1994 to 91,000 in 1995. As

everyone knows, the rule for acquiring French nationality is no longer jus soli, but jus sanguinis. The system of financial assistance for returnees had set the stage for these changes as early as 1982, but it was not until 1986 with the introduction of strict controls on foreigners' entry and stay in France and widespread identity checks, that all immigrant groups were designated as potentially responsible for everything wrong with French society, an attitude which encouraged a particularly disturbing racist and xenophobic movement in France, especially at the electoral level. Every opportunity was then taken to add specific provisions targeting foreigners to an entire series of laws. In 1992, waiting areas in ports and airports and a national foreigners' register were established. The series of immigration control laws, which modify the conditions for the exercise of the right of asylum, family reunification and mixed marriages was revised in 1993.

42. The expert concluded by saying that managing migration flows requires a policy of openness that regards immigration not as a burden per se but as an asset which society cannot afford to lose. It is a cultural asset, enables societies to become open to the rest of the world and also provides some obvious answers to the demographic evolution being experienced by many industrialized countries, especially within the European Union. On the other hand, efforts should focus now on building new economic relations among the countries concerned, i.e., starting a debt cancellation process and finding a different approach to traditional North-South relations.

B. Discussion

43. There was agreement on the need to redefine racism and discrimination in terms of the new concept of globalization. Reference was made to specific situations and demographic pressures, as well as new demands in the host societies, especially the lack of attention paid to the root causes of migrations and the increasingly restrictive response by the receiving countries. The participants agreed on the use of new terms for the root causes of discrimination, in particular the environmental causes that produce so-called ecological migrants, and criticized the fact that the payment of the external debt service takes precedence over satisfaction of the population's urgent needs and affects the growing unemployment rate.

44. It was indicated that, although there are States which are happy to receive immigrants, efforts should focus on enacting legislation to avoid racial conflicts and aggression against migrant workers, especially when such attacks are fomented by the platforms of political parties that are interested only in getting themselves elected. It was also requested that ILO standards should be strengthened, especially when countries begin to talk in terms disparaging to migrant labour. Reference was made to the need to regulate the competition that arises between migrant workers and the workers of the host State, in particular because of its role in causing salaries to decline. On this point, reference was made to the need to bear in mind the agreements reached at the 1993 Vienna World Conference on Human Rights, its Programme of Action and the agreements adopted at the International Conference on Population and Development, held in Cairo, concerning the impact of migration flows.

45. It was indicated that, although migration is enriching from a cultural point of view, developing countries are often hurt by the brain drain, to the benefit of receiving countries; and that migration can also improve the domestic situation of the receiving country while generating foreign currency income for the sending country which can help improve its economy.

46. Emphasis was placed on the need to study the prevailing problem of insecurity, to explore the origin of internal conflicts, ethnic conflicts and landlessness, terrorism, etc., to point out that these are not necessarily caused by migrants and to restore a positive connotation to migration. It was agreed that the topic represents a challenge for the end of this decade and the century and that its link to development cannot be disregarded, as it is a multidirectional aspect that is a matter of concern to everyone.

47. The participants in the debate spoke of the need to give consideration to social inequalities and denials of human rights; both the developed and developing countries have the responsibility of avoiding the spread of racist and discriminatory ideas, as they ultimately help to marginalize migrants even more.

48. Lastly, a call was made for awareness of the role of States, international organizations and the major multinational corporations, which can work together to find solutions to a problem of such immediate importance. The debate concluded on a note of optimism, with suggestions of ways of meeting the need for people to work and, if possible, live in their place of origin.

IV. NATIONAL AND INTERNATIONAL PROTECTION OF IMMIGRANTS

A. Introduction of the topic

49. The topic of "International protection of immigrants" was treated by Mrs. Halima Embarek Warzazi, a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Because of its close connection to Mrs. Warzazi's work, the next topic to be dealt with was "National protection of immigrants", which was treated by Mr. Michael Banton, Chairman of the Committee on the Elimination of Racial Discrimination.

50. Mrs. Warzazi approached international migrations by analysing their root causes, basically the quest for economic well-being or the desire to escape from oppression. With regard to immigration as a movement towards developed countries, she noted that immigrants were initially well received because they met a need in rapidly growing host countries. The situation has since degenerated to one of open hostility and growing discrimination against immigrants.

51. She then mentioned the various international instruments established to protect migrant workers in particular and immigrants in general against the different forms of discrimination to which they may be exposed in their work or daily lives.

52. In the preamble to its Constitution, the International Labour Organization guarantees the protection of migrant workers, which it subsequently strengthened through several Conventions and Recommendations, including:

Convention No. 97, revised in 1949;

Recommendation No. 86, revised in 1949;

Recommendation No. 100, of June 1955, concerning the Protection of Migrant Workers in Underdeveloped Countries and Territories;

Convention No. 143, 1975, concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers;

Recommendation No. 151, 1975, concerning Migrant Workers;

The Maintenance of Social Security Convention, 1982, followed by the Recommendation of 1983.

53. Mrs. Warzazi notes, however, that ILO's protection is limited in that its mandate does not cover all possible infringements of migrant workers' rights, whence the need for the United Nations to establish new legal instruments that will provide more effective protection. The Universal Declaration of Human Rights of 1948 implicitly protects migrant workers, but it was not until 1965 that the International Convention on the Elimination of All Forms of Racial Discrimination was adopted. Its implementation is monitored by a committee of experts established for that purpose, principally through the consideration of reports by States parties, covering articles 2, 4, 5 and 6 in particular.

54. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights of 1966 strengthen and further develop the principles of the Universal Declaration of Human Rights, extending their scope to all individuals subject to the jurisdiction of the States parties, including migrant workers. On this basis, the Committee on Economic, Social and Cultural Rights is entitled to request and receive information from States parties on the human rights situation of migrant workers in their countries.

55. In 1990, the United Nations produced the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The intention of this instrument is to protect a group of people who are particularly vulnerable and susceptible to any upsurge in the spread of xenophobic or nationalistic ideas. It establishes a number of rights on their behalf and imposes obligations on host States. Among the merits of the Convention is that it takes up the cause of groups which the ILO Conventions leave aside, notably those who lack documents to justify their presence in the territory of a particular State.

56. The initiative has been a near failure, as few States have ratified the Convention. For Mrs. Warzazi, this indicates a lack of recognition by host

countries of persons who once helped rebuild their economies and are today subjected to degrading treatment in an atmosphere of complete indifference. Some Governments are even in collusion with the purveyors of discriminatory ideas.

57. She is also disturbed at the fact that penalties are targeting illegal immigrants and even becoming a threat to legal immigrants, with family reunification becoming more and more difficult. Taking the examples of ILO Conventions and Recommendations, particularly the provisions of Recommendation No. 151 of 1975 on reunification of families, and considering the frequency with which this Recommendation is violated because of the current policies of host countries, she questioned the value of the reports submitted by the States parties to the ILO Committee of Experts.

58. The problem that arises is how to ensure greater protection given the reluctance of States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: what should be done to provide immigrants with as full and effective international protection as possible? The solution could be to establish a proper development and coordination policy at the international level. She cited a report of the International Conference on Population and Development which suggests that limiting international migration hinges on "making the option to remain in one's country a viable one for all people".

59. The role of non-governmental organizations and the general public in host countries could be to raise awareness, report abuses and bring pressure to bear on Governments.

60. ILO should make the trade unions aware of the need to bring pressure to bear on Governments; it should also set up monitoring machinery to deal with the problems of migrants and their families. ILO should also alert the International Organization of Employers to the need for its members to adopt directives and a code of conduct towards migrant workers. On that point, she warned against a cursory reading of the provision in the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (art. 1, para. (2)) that permits discrimination and questioned to what extent such provisions are consistent today with the principle of international protection for immigrants. She also stressed the need for the members of the Committee on the Elimination of Racial Discrimination to insist that States parties withdraw their reservations to article 4 of the Convention.

61. The time is ripe for forceful action by the Committee. Several States and the European Union are combating the use of racism by certain parties and groups. She noted the European Union's initiative of proclaiming 1997 the "European Year against Racism" and the suggestion for the establishment of a European Monitoring Centre for Racism and Xenophobia.

62. She urged United Nations bodies to give full consideration to the question of migrant workers and called for the improvement of the information sources available to them, through joint action by ILO, UNESCO, NGOs and trade unions. In addition to the work of the members of the monitoring bodies, pressure should be brought to bear on States for serious violations of human rights. The Sub-Commission on Prevention of Discrimination and Protection of

Minorities provides an appropriate framework for the distribution of information, cooperation among parties and debate on all aspects of the issue.

63. The mass media should take an active part in several aspects of the problem: informing migrants of their rights, bringing incidents of discrimination to public attention and giving coverage to the treaty bodies' commentaries, criticisms and recommendations and the reports of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

64. Lastly, the United Nations High Commissioner for Human Rights should encourage the Member States of the United Nations to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

65. In conclusion, she said that little progress has been achieved so far in protecting migrant workers and combating racism and racial discrimination and repeated her appeal to the international community to strengthen such protection.

66. Mr. Michael Banton began by saying that migration today is a global issue in that it affects all regions and occurs in response to the creation of a global market in labour. He then reviewed migration throughout the world, noting the problems faced by the different continents and remarked that the protection of migrants must be a matter of concern for States in all regions, both sending States and receiving States.

67. He explained why the regulation of the global marketplace has become an acutely political issue. One means of controlling access to the labour market is by allowing different rights to different categories of workers. He pointed out the obvious conflict of interest in immigration policies. He questioned the practicability of a policy in which the rich countries would invest so as to improve employment prospects in the poor countries and said that the high population growth rates in the poor countries were an obstacle to such policies.

68. He referred to the political problem raised by the fact that, if a democratic Government were to meet international norms regarding immigration 100 per cent, it would probably lose the following election and cease to be the Government. The solution must include finding ways of reaching public opinion in countries experiencing immigration and boosting support in the general public for international norms. National action should be in accordance with international and regional obligations because, in recent years, the pressures stemming from open labour markets have come into conflict with rights-based politics in domestic regimes.

69. He drew attention to the idea underlying the suggestion that the Seminar should be held, i.e. that increasing immigration, particularly, but not exclusively in west European countries, was leading to an increase in racism. The nature of this relationship should be clarified, as, in his view, the social effects of immigration will depend on whether the labour supplied by immigrants is perceived as competitive with or complementary to native labour and there is no satisfactory measure for determining whether racism has

increased or decreased. He also pointed to a lack of precision in the use of the expressions "racism" and "racial discrimination" in international instruments.

70. He brought up the conflict of interests between the nationalistic conception of the State, in which the people who have come together as a nation believe that they are also the legitimate owners of their State, and the concept of the State as the protector of the rights of all its citizens, including immigrants. He referred to the hypothesis that opposition to immigration will be greater the more extensive are the welfare provisions in the receiving society and will be low when migrants are admitted only as contract workers. He stressed, however, that it is more constructive to concentrate on practical measures for combating discrimination on the grounds of race or ethnic origin.

71. Apart from individual guarantees, very few States have adopted explicit policies on the last point. The first was Sweden, where the Government formulated three guiding principles in 1975: equality, freedom of choice and partnership, although with the proviso that they exist in parallel with respect for the underlying values of Swedish society and the rights of women and children. Without adequate records, however, no Government can be sure that the measures it adopts in compliance with international instruments are effective.

72. With regard to repressive measures, he said that, although most States now have legislation criminalizing incitement to racial hostility, punitive measures are not always the most appropriate ones. With regard to compensation provided by national mechanisms for the protection of migrant workers, he said that rights should be protected against abuse from any source. He invited States to monitor all trends which can give rise to racial segregation and to work for the eradication of any negative consequences that ensue. Unfortunately, he said, the obligations of States to ensure effective remedies are rarely discharged in full; only 23 of the 148 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have made the declaration under article 14 recognizing the competence of the Committee to receive and consider communications from individuals who claim that their Government has not provided them with the promised protections. Although this article entered into force in 1982, only eight communications have so far reached the Committee.

73. Where educational measures are concerned, one reason why the standards set in the Convention are not widely met is that most members of the native population prefer not to know about the discrimination with which immigrants have to contend. This underlines the importance of the role that the mass media, NGOs, churches, trade unions and other associations can play in reaching the general public.

74. In conclusion, he proposed 11 solutions. Among the most significant, the High Commissioner for Human Rights should be asked to organize a seminar on the role of the mass media in combating racism and the mass media should be persuaded to contribute to the funding of the seminar, with the aim of making it a big publicity-attracting conference, rather than an in-house seminar.

75. A general debate on both topics was held following the statements.

B. Discussion

76. A common complaint was that few defence mechanisms existed since one highly important international instrument, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, had not entered into force because few countries had ratified it. During the discussion, several speakers suggested that countries receiving migrants should make a special effort to ratify the Convention and that employers' organizations and unions should play a more active part in the defence of the rights of this vulnerable group. It is therefore essential to strengthen the State's role as guarantor, rather than violator, of human rights.

77. It was suggested that a "code of conduct" should be drawn up to determine how the State should treat migrants, asylum seekers and refugees. It should also provide guidelines for workers to follow, particularly during judicial proceedings, so that foreigners are tried solely for breaking the law or committing a crime and not for the mere fact of being foreign.

78. Objections were raised to Mr. Banton's suggestion that, in order to solve the problem, the rich countries should invest in those countries that produced migrants, with a view to improving domestic employment prospects. A number of participants considered that the idea was difficult to put into practice.

79. The participants referred in detail and at some length to the question of reservations to the International Convention on the Elimination of All Forms of Racial Discrimination. Generally speaking, it is receiving countries that enter reservations, as was clear at the last session of the Commission on Human Rights: it is usually those countries that put difficulties in the way of open discussion of a topic, often pleading the right to freedom of expression, a freedom which, if badly used, can become a pretext for incitement to racism. There is a danger that this freedom may be invoked overmuch; it cannot be completely unrestrained. The participants cited a number of cases where it had been misunderstood, particularly by the media.

80. Speakers objected mainly to reservations that call into question the basic objective of conventions and suggested that it should be the developed countries, and particularly the receiving countries, that seek full ratification of the relevant international instruments and mechanisms, since they are the ones that usually oppose ratification so as to keep immigrants away. Emphasis was placed on the need to campaign at all levels for the full ratification of these important international instruments and the participants requested the support of the Office of the High Commissioner for Human Rights and of the Centre for Human Rights in this respect.

81. The speakers and participants in the Seminar expressed particular concern about the question of education, as they felt it to be the basis for achieving full respect for migrants and the elimination of racism. They agreed that it is necessary to implement educational measures aiming to combat the effects of uprooting and introduce new cultural attitudes - including

respect for differences - with the aim of promoting integration with the host population. It is a long-term process, since it is a preventive measure.

82. It was suggested that an initial, short-term strategy could be to concentrate on disseminating information via the mass media. Radio and television would be the most appropriate media, but they raise several problems such as financing, high operating costs and, not infrequently, their own profit motive. Nevertheless, speakers underlined the need to undertake a massive education campaign as a means of re-educating people and doing away with the racist attitudes currently springing up all over the world.

83. Emphasis was also placed on the need to bear in mind the link between racism and sexism and it was suggested that preferential treatment that could affect women should be avoided. An example is cultural prejudices that find their expression in attempts to apply birth control policies to one particular ethnic group. This connection should be borne in mind and the Special Rapporteur was encouraged to continue analysing gender inequality and the expressions of racism that may accompany it, as well as any penalties that might be imposed.

84. In this regard, several speakers requested a review of the guidelines of the Committee on the Elimination of Racial Discrimination, particularly on the submission of its documents and conclusions, so that the relationship between racism and sexism, which frequently overlap, can be incorporated into the approach it takes. There is also a need to protect female domestic workers, who also encounter racist behaviour. Greater access by women to education and professional options providing alternatives to motherhood were also requested.

85. There was some discussion of the need to encourage citizens to support international standards and to provide education on the subject. International forums and the bodies responsible for implementing international standards cannot always bring as much pressure to bear on Governments as voters themselves can, so that it is necessary to educate people on the need for total compliance with international instruments. A number of participants mentioned serious cases of racial discrimination masquerading as freedom of expression and requested those States parties to the Convention which had entered reservations to article 5 to withdraw them.

86. The day's discussions ended with an interesting exchange of opinions on the relationship between the concepts of racism and racial discrimination. In modern-day language, the term "racism" is often used to refer to racial discrimination. However, in 1968, the United Nations General Assembly adopted both terms and it was agreed that "racism" is a broader concept than "racial discrimination". In this Seminar, it was suggested that racism implies all ideological and socio-economic factors that may promote racial discrimination.

V. PROTECTION OF IMMIGRANTS AGAINST DISCRIMINATION IN ACCESS TO EMPLOYMENT. ACTIVITIES OF THE INTERNATIONAL LABOUR ORGANIZATION (ILO)

A. Introduction of the topic

87. The topic was introduced by Mr. Roger Zegers de Beijl, who began by giving an overview of the international situation of workers at the close of the twentieth century and presented ILO figures showing the magnitude of the migration phenomenon in modern times.

88. He referred to the driving forces behind migratory movements and their relationship with the current process of globalization. Workers require protection and States can accept and implement minimum internationally agreed labour standards which set minimum levels of protection below which no national law or practice should fall. He described in broad terms the efforts led by ILO to set worldwide standards covering areas of relevance to migrants as well, including wages, weekly rest, holidays, the right to organize, termination of employment and dispute settlement.

89. He outlined the main features of two ILO Conventions, Nos. 97 and 143, part II, whose key provisions aim at ensuring non-discrimination and equality of opportunity and treatment between migrant and national workers. He emphasized the far-reaching effects of these Conventions and mentioned the number of ratifications each of them has received. He said that a survey is to be conducted on the difficulties encountered by ILO constituents and the reasons preventing them from ratifying the Conventions and thus increasing the number of ratifications.

90. He also mentioned the adoption by the General Assembly of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and regretted the low number of ratifications it had received.

91. He raised the interesting question of equality of treatment, referring to ILO Convention No. 111, whose aim is to combat discrimination in employment, and recalled the Convention's definition of discrimination. Unfortunately, it does not cover discrimination on the grounds of nationality and is therefore of limited value for the protection of non-national workers. He pointed out that specific instruments, which explicitly include nationality among the grounds on which discrimination is not permitted, offer more incentives for protecting the rights of non-national migrant workers, although at the same time they respect the State's prerogative of making distinctions between citizens and non-citizens, particularly in immigration policies.

92. He said that research carried out by ILO has found discrimination against migrant workers to be widespread and pervasive and he recalled the ongoing promotional and supervisory work carried out by ILO on conventions relating to migrant workers, the research it undertakes and the policy advice it offers.

93. He gave details of a special programme to combat discrimination against migrant workers, which ILO launched at the beginning of the 1990s and whose

aim is to inform policy makers, employers, workers and non-governmental organizations on how legislative measures and training activities can be made more effective. He described the four elements of the programme.

94. The first concerns the documentation of cases of discrimination in access to employment. Many instances of discrimination occur at the very moment when the immigrant tries to submit a job application and, in some cases, if the immigrant is offered a job, the terms and conditions are inferior to those offered to the national applicant.

95. The programme's second activity is the evaluation of the scope and efficacy of anti-discrimination legislation. Penal code provisions are of limited use in providing redress to victims of discrimination. Comprehensive civil legislation offers better protection to migrants suffering from discrimination. The speaker emphasized the need for a specialized institution in the area of equality of treatment and non-discrimination as an effective means of guaranteeing the enforcement of the relevant legislation. Such an agency should be empowered to initiate legal action in cases where mediation failed.

96. The third element of the programme is training and education in equal treatment or non-discriminatory behaviour. The programme is currently being developed and it is expected that, as the results of the evaluation of anti-discrimination training activities in different countries become available, it will be possible to advise on the adjustments required to achieve the desired aim.

97. The fourth activity of the programme involves seminars which are to be held starting in 1998 and will bring together ILO actors to examine what changes might be called for in legislation and policies aimed at combating discrimination and in anti-discrimination training. The speaker said that the conclusions could be compiled in an ILO manual, which will be the final output of the Organization's activities to combat discrimination.

B. Discussion

98. The participants paid tribute to the great achievements of ILO and its responsible approach to this subject. Convention No. 143 still faces considerable problems, however, and it will be necessary to launch a campaign to encourage States to ratify it. It would be useful if the ILO Committee of Experts and the Committee on the Elimination of Racial Discrimination analysed to what extent the clause on the admissibility of drawing a distinction between citizens and non-citizens complies with the principle of protecting migrant workers.

99. The participants recalled the need for wider dissemination of the ILO Conventions and requested ILO to step up its activities, particularly in efforts to formulate a policy on integration, mainly one aimed at the younger generations.

100. It was also considered important that migrant workers should be regarded as minorities so that they can benefit from the protection minorities received

from international instruments. It is important to break down the resistance of certain employers, Governments and trade unions to the idea that discrimination is not a widespread problem.

101. Attention was drawn to the need to promote integration policies at the national level to help second- and third-generation migrants, who have something to learn from the experiences of the first generation, the latter having been educated in their country of origin, while they themselves received their education in the host country. Emphasis was placed on the need for education and training with the aim of imparting knowledge and changing attitudes in order to eliminate racist tendencies and to build a culture that understands society's legal and human needs. In this respect, close collaboration with the Office of the High Commissioner for Human Rights and the Centre for Human Rights is called for, particularly in the preparation of the materials to be used. Although this is now the Third Decade to Combat Racism and Racial Discrimination, insufficient progress seems to have been made. Efforts should therefore be redoubled and Governments should take further positive steps to facilitate the integration of migrant workers into society and the workplace.

102. After the discussion on ILO activities, additional time was allowed for discussion of the role of the media in combating racism and racial discrimination. It was recommended that seminars should be held to discuss this question, although it was understood that there would be many problems associated with such an ambitious undertaking, particularly bearing in mind the lack of interest the major media representatives show for situations that do not appear to be economically viable.

103. The participants agreed that the campaigns should include a component on human rights education and promote the restriction of racist propaganda within a context of absolute respect for freedom of expression.

104. It was noted that the role of the media in incitement to racism has been the subject of much discussion, that the Sub-Commission and rapporteurs have looked into the issue and that a number of countries have criminalized such behaviour, yet no real and lasting solution has been found. The international community needs to do more. A number of examples were given, particularly of meetings held in other countries: Norway, for example, made 9.5 million kroner available for one such meeting. It was emphasized that a prime aim should be to include young people, in view of the multiplier effect that would have, and that a well thought-out campaign could give a major boost to efforts to combat racism and racial discrimination.

VI. INTEGRATION AND/OR PRESERVATION OF IMMIGRANTS' CULTURAL IDENTITIES IN HOST COUNTRIES

A. Introduction of the topic

105. The topic was introduced by Mr. Héctor Dávalos Martínez, Executive Secretary of the National Commission of Human Rights of Mexico, who began by introducing the phenomenon of migration and the particular problems to which it has given rise during the twentieth century, now drawing to a close.

106. He said that, after a number of decades of liberal immigration policies, the trend today is towards closing frontiers and deporting foreigners because migration is felt to have reached such a point that it threatens the cultural identity of the receiving countries. Migration has ceased to be a domestic issue and, like drugs trafficking, has become a problem of national security for States; it is the very volume of migration that has earned it this new definition. He mentioned the pull and push variables that encourage people to leave their country and cross one or more borders and described the current failure of policies on immigration and on hiring temporary workers, which were effective in the past. Generally speaking, the jobs taken by immigrants are rarely those sought by workers from the receiving country since they are considered dirty, dangerous and degrading.

107. The changes in the pull and push factors coincided with a broad social movement that demanded more civil, political and economic rights for minorities, including immigrants, and this led to a tightening-up of immigration policies and tougher border controls and fostered an increase in undocumented immigration.

108. Migrants move not only towards the developed countries, but increasingly among developing countries, and he was concerned that receiving States may not have sufficient legal mechanisms to guarantee migrants a minimum of rights and that violations of their legal rights may occur. Moreover, in developed countries, attempts are now frequently made to restrict immigrants' access to public services financed by national taxpayers, particularly education, health and social security services. To all appearances, the idea that, in order to control the border, it is necessary to back-pedal on non-citizens' human rights is daily gaining ground.

109. He referred to the case of Mexico, which, as one of the major generators of migration to a developed country, has been affected by anti-immigrant surges, and he recalled that, because of its geographical position, Mexico is at the same time a receiver country for migrants from Central and South America.

110. In considering the question whether to integrate or to preserve migrants' cultural identity in receiver countries, account must be taken of the asymmetrical relationships that arise when a minority culture encounters a very different culture in the receiving country. The assimilation process implies erosion of a group's original culture and its replacement by the symbols of the culture it encounters, while preservation implies resistance and adaptation in order to preserve the original culture. Integration lies midway between the two.

111. Noting that assimilation is not the predominant trend among migrants or the path that receiving States should encourage them to take, he referred to what is known as the "acculturation of convenience", in which two or more cultures coexist in self-contained spaces and do not manage to fuse; generally speaking, in such situations, both sides erect barriers as a defence mechanism. A number of factors favour integration, such as the existence of upward social mobility, the way in which the migrant minority entered the receiver society and the degree of similarity between migrants' and the receiver population's racial and cultural characteristics. Integration may be

partial or total and there are differences depending on whether migrants are located in widely spread or confined geographical areas. He stressed that developed countries have to provide economic cooperation for the countries that are the main sources of migrants, in order to reduce the causes of migration, although this is a long-term solution.

112. He also recommended a change in terminology, from "legal" and "illegal" migrants to "documented" and "undocumented" migrants, since that would make it possible to take a more human view of the phenomenon of migration.

113. National institutions for the protection and promotion of human rights operating within the United Nations framework should be seen as a new actor in the search for solutions to the phenomenon of migration. He referred to European, Central American and Mexican experiences in this respect.

114. Lastly, he stressed the need to foster a human rights culture. It is particularly important to introduce reforms in educational systems with a view to developing multilateral programmes to bring together the children of receiver countries and those of minorities and migrants. In this way, it will be possible to avoid creating feelings of superiority or disadvantage, for, unless such patterns are broken, there can be no encouragement for integration.

B. Discussion

115. A large majority of the participants favoured the use of the term "integration" and the term "assimilation" was roundly rejected because of the implication of loss of cultural identity. On the other hand, integration implies that migrants enter the host society with their own cultural baggage intact. Although there was no consensus on the matter, dual nationality was considered a factor favouring integration while avoiding the risk of unnecessary loss or degradation of migrants' culture. Dual nationality helps to break the vicious circle that gives rise to an atmosphere of intolerance. The participants therefore agreed that dual nationality should be seen as a basis for efforts to combat racism and racial discrimination.

116. Nevertheless, the decision to keep one's own nationality or to apply for that of the host country is a decision for the migrant alone to take.

117. The participants stressed that the right to be different should always go hand in hand with the process of integration and said they were convinced that any nation was enriched by the differences that integration fostered and that the future of nations lay in the mingling of races, as shown by the UNESCO Declaration of the Principles of International Cultural Cooperation, adopted in 1966. It was agreed that regarding migrants as minorities would broaden the protection they could be offered, since official United Nations texts to that effect already exist, and States were therefore called upon to provide schools, newspapers, translators - anything that would promote the preservation of migrants' culture. In this way, it might be possible to break the vicious circle implied by the attitude that "out of respect for your identity I shall take no steps to help you integrate, nor shall I offer you protection".

118. The participants also recalled that the receiving society is one that changes, as migrants themselves do, and yet the culture endures. If migration is understood as a specific kind of enrichment, migrants should thus be afforded concrete protection and social exclusion and the creation of ghettos should be avoided; this in turn means that they should be protected no matter on what basis they entered the country. In this respect, the Committee on the Elimination of Racial Discrimination should ensure that States report on the concrete steps they have taken to protect migrants, especially temporary or contract workers, in order to evaluate the effectiveness of such protection, although this would require specific statistics and research, which in many cases are lacking.

119. There was some discussion of the receiving countries' responsibility for fostering respect for cultural identity, but the participants pointed out that the countries of origin should also do all they can to encourage the preservation of that identity. It is necessary to be alert to the changes in manifestations of racism and to changing immigration policies: international agreements had been concluded in the past to encourage migration, but today other agreements are being made in an effort to stem it. Education and training are matters of the utmost urgency and the participants urged that education should be global and ongoing from the first days of life in order to prevent children from growing up with prejudices. There is also a need to establish procedures to update educational materials and provide refresher training for teachers, students and parents, not forgetting the teaching of the Church, which carries great weight. Public servants and non-governmental organizations should also be included in training activities, yet at the same time there is a risk, ironically enough, of educational activities being restricted for financial reasons. The participants discussed the kind of information campaigns that could be launched not only in countries of origin, but also in receiving countries, and the media's role in such campaigns. They attached great importance to the possibility of UNESCO encouraging the equivalence of diplomas or school certificates issued in the country of origin, in order to avoid merely partial access to employment.

120. Important opinions were expressed about the full application of social guarantees for migrants in order to reduce the risks of racial discrimination. Equal opportunities and equal rights play a crucial role, the participants said, urging that the very important sector of retired migrants should not be overlooked; in many cases, they do not receive social security benefits, despite being regular contributors. The rights of the child should also be fully respected and the kind of life and quality of life we want for retired migrants as well as for children must be borne in mind; to that end, effective measures should be adopted. The presence of migrants must help finance social benefits, particularly in countries with an ageing population and low birth rate.

121. The advisability of creating bilateral consultation machinery between host countries and countries of origin was also discussed with a view to keeping the dialogue going and exchanging ideas about a phenomenon of common interest, for which there are responsibilities that must be assumed by both types of countries. In these times of globalization, everyone is a migrant and there is a serious risk of losing out on the real value of civilization, since all people are enriched by the differences between them.

122. The privilege of society and civilization must not be lost sight of; and this is a shared responsibility from which no State is exempt, since the type of world we live in depends on it. The world currently faces a choice between democracy and barbarism; apparent signs of progress, however, frequently belie just the opposite, as exemplified in the Maastricht Treaty, which, although it has many positive aspects, actually restricts migrants' right to vote. These restrictions arouse feelings of exclusion among migrants who are unable to exercise that right, not even at the local level.

123. At the end of the session, the participants in the Seminar regretted the absence of representatives of the Governments most concerned by migration and of NGOs working with this vulnerable sector of the population.

124. After the debate, the group of experts agreed to meet in private in order jointly to draft the conclusions and final recommendations, which would be based on the opinions expressed by experts and participants.

VII. CONCLUSIONS AND RECOMMENDATIONS

125. The Seminar considered the draft conclusions and recommendations submitted by the experts. Amendments were made by several participants.

126. The expert from Japan said that his Government had difficulty with a number of the conclusions and recommendations. The experts from India and Malaysia also expressed their Governments' reservations [illegible]ut acceptance of the conclusions and recommendations.

127. The final text of the conclusions and recommendations adopted by the Seminar is reproduced in annex I.

VIII. CLOSING MEETING

128. The closing meeting took place on 9 May 1997. In a statement, the Chief of the Research and Right to Development Branch of the Office of the High Commissioner for Human Rights/Centre for Human Rights said that, based on the results of the work of the Seminar, action to combat discrimination affecting migrants appeared to have made further progress. He supported some of the conclusions and recommendations, particularly those calling for (a) "a global approach to the question of international migration, which occurs on all continents, recognizing the positive aspects of immigration for host countries"; (b) "equal treatment for immigrants in all host countries"; and (c) "the close link between migratory movements and level of development, which involves the implementation of a genuine policy of development and cooperation at the international level, the principal objectives of which must be to improve living conditions and to ensure full employment, social justice and democracy".

Annex I

CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE SEMINAR

I. CONCLUSIONS

Globalization and immigration*

1. Although discussion of immigration and international migration currently focuses on the measures taken, particularly by developed countries, to close their borders and limit immigrants' rights, the question of international migration must be considered from a global perspective. The Seminar found that migratory movements are not only towards the North, but in all directions.

2. Geographic mobility continues to increase because of the growing poverty in the third world and because, despite the crisis, developed countries continue to look for more and more people. Workers competing for jobs are one sign of this.

3. Immigration should in no way be perceived as a problem, but rather as a phenomenon. This phenomenon affects, among others, those who are obliged to leave their countries in search of work to support themselves and their families and those who seek safety by fleeing war and repression at great cost.

4. The question of migration is inseparable from the current process of economic globalization. The Seminar made it clear that there is a fundamental contradiction between the tendency to place increasingly draconian restrictions on individual mobility and the free flow of trade and the liberalization of trade in services and financial transactions encouraged by transnational corporations and financial institutions.

5. Besides differences in income between North and South, the gap in levels of development may be explained, in part, by the growing burden of external debt and debt-servicing; by varying and, especially, falling commodity prices; and by the reduction in public development assistance.

6. Stabilizing populations and individuals in their home countries and regulating migratory movements will require a genuine policy of development and cooperation at the international level, the principal objectives of which must be to improve living conditions and to ensure full employment, social justice and democracy.

7. Immigration can greatly benefit and enrich host countries and societies economically, socially and culturally.

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* The terms "immigration" and "migration" have been used in this text without restrictive intent to refer to overlapping concerns of international migration and immigration of persons into second or third countries.

Contemporary forms and manifestations of racism and racial discrimination against immigrants

8. The Seminar noted with concern that many countries had experienced an upsurge in racism, racial discrimination and xenophobia towards, and violence against, migrants and immigrants.

9. The Seminar noted that discrimination against migrants is based not only on differences in race, colour or religion: it may also be economic or political. For example, many countries are host to migrants of the same race, religion and language who are nevertheless subject to contempt and discrimination. It is therefore necessary to combat all discrimination by ensuring legal treatment of migrant workers and their families throughout the world.

10. Particular attention should be directed towards female migrant workers, who are doubly discriminated against, as women and as migrant workers.

Attendance

11. The Seminar regretted the absence of many of the countries most concerned by the issues discussed, in particular the major host countries.

12. The Seminar welcomed the role played by non-governmental organizations (NGOs) and trade unions and encouraged them to increase their support for migrants.

II. RECOMMENDATIONS

Integration and/or preservation of immigrants' cultural identities in the host country

13. The right to be different, as proclaimed in article 1, paragraph 2, of the 1978 UNESCO Declaration on Race and Racial Prejudice, should be respected by all. In developing policies for the integration of immigrants, host States must guarantee the preservation of migrants' cultural identity as a pledge of their right to be different, subject to the legislation of the host country.

14. Just as the decision whether or not to apply for another nationality is a matter for each individual, so it is for each individual to decide which elements of his or her home culture he or she wishes to maintain and which elements of the country's culture he or she wishes to adopt. This includes respect for such choices and the possibility of realizing them.

15. Governments should invest in formal and non-formal educational programmes as an effective way to promote cultural understanding.

National protection of migrants

16. States are called upon to ratify and implement the 1990 International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families, as well as relevant Conventions of the International Labour Organization (ILO), including Conventions Nos. 97 and 143. A worldwide

information, education and promotion campaign to bring into force the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families is called for. This campaign should be organized and supported by concerned Governments, intergovernmental bodies and NGOs. The Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights should facilitate this campaign and expand the provision of information on the Convention better to inform the public and encourage Governments to ratify or accede to the Convention.

17. All States should ensure that both State officials and immigrants themselves are made aware of the rights embodied in human rights instruments and the specific international conventions of both the United Nations and the ILO on the rights of migrant workers and their families.

18. State laws setting out civil and other rights do not always provide effective protection for migrants in vulnerable circumstances. It is therefore important that States should collect and publicize quantitative information on the extent to which these rights are enjoyed in practice and on equality of opportunity. This information should cover equality of opportunity for both male and female migrants and their descendants.

19. Governments must establish suitable, efficient, accessible recourse procedures for victims of racism, racial discrimination and xenophobia. Victims should receive legal assistance, if necessary at no cost, in lodging their complaints and during consideration of those complaints. These procedures should include protection to enable undocumented migrants to denounce crimes and violations of rights to police authorities and to serve as witnesses in prosecutions. Appeal procedures should be widely publicized in a campaign targeting both immigrants and the host society.

20. The Seminar requested all Governments to consider and to keep under review the introduction of measures enabling immigrants to participate fully in local elections. The right to organize should be guaranteed for migrants in all receiving countries in conformity with the legislation.

21. The Seminar requested all Governments to consider and keep under review the recognition of dual nationality for immigrants.

22. Governments should grant migrants the same rights as minorities under the relevant national legislation.

23. National measures to protect migrants from racial discrimination can be divided into those relating to law enforcement and those designed to promote better inter-group relations. Enforcement should not rely on criminal law alone. Experience in some countries has shown that, for certain purposes, remedies under constitutional or administrative law may be more effective. Remedies under labour law, with its less formal procedures and reliance on a civil instead of a criminal standard of proof, have many advantages. They can also be much cheaper. Governments are asked to consider whether they make full use of all these possibilities. Recognizing the desirability of better publicity for the problems faced by immigrants, the Seminar recommends that Governments should review their arrangements for record-keeping to see that

they monitor any inequalities in the treatment of immigrants, that they encourage employers to do likewise and that the results are publicized.

24. In devising policies to protect the civil, political, economic, social and cultural rights of immigrants, States would be well advised to consult with representatives of immigrant associations. These policies should neither enforce a dispersal of immigrant families nor ignore the negative consequences of the formation of immigrant ghettos.

25. National institutions for the promotion and protection of human rights should carry out studies and analyses to help the authorities and society generally gain a better understanding of the various problems associated with migratory flows, the unacceptability of violations of migrants' rights and the principal causes of these phenomena, so that solutions can be put forward.

26. National institutions should examine the legislation of their respective countries and propose to their Governments the legal reforms needed to protect immigrants from racial discrimination, improve their situation, encourage their integration and promote their involvement in activities of every kind.

International protection of immigrants

27. The General Assembly should organize specific events on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights and in preparation for the World Conference on Racism. The Seminar also recommends the establishment of an international forum for migrants' associations in order to encourage their involvement in, and concrete contribution to, these events.

28. The Office of the High Commissioner/Centre for Human Rights should ask the Committee on Crime Prevention and Control about action by the Governments of immigrant-receiving countries to train law enforcement officials (prosecutors as well as police) in non-discrimination under articles 1 and 2 of the Code of Conduct for Law Enforcement Officials and request that the police should recruit from all sectors of the community.

29. In reviewing the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, the High Commissioner for Human Rights should give priority to the rights of immigrant children, in particular to the suggested Seminar on the transmission of racial inequality from one generation to another (paragraph 7 (d)).

30. The United Nations Educational, Scientific and Cultural Organization (UNESCO) should work with Governments to establish international equivalences among national diplomas in order to allow immigrants access to employment commensurate with their skills, and with equal pay and promotion prospects.

31. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination should consider the possibility of making the declaration recognizing the Committee's competence under article 14. Persons likely to face racism and discrimination should be informed of remedies

available at the international level, such as that provided by article 14 of the Convention, so that they can seek satisfaction before international bodies when domestic remedies have been exhausted.

32. The Seminar took note of and strongly supported General Recommendation XV (42) of the Committee on the Elimination of Racial Discrimination on article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, which concluded that the prohibition of the dissemination of all ideas based upon racial superiority or racial hatred was compatible with the right to freedom of opinion and expression as embodied in article 19 of the Universal Declaration of Human Rights and recalled in article 5 of the Convention.

33. The Office of the High Commissioner/Centre for Human Rights should continue its efforts to make Governments, NGOs, migrants and members of national or ethnic minorities better acquainted with the International Convention on the Elimination of All Forms of Racial Discrimination.

34. The Seminar calls upon all States to declare illegal and prohibit any transmission by audio-visual or electronic media, including the Internet, which incites to racial hatred or racial violence.

35. The Committee on the Elimination of Racial Discrimination should consider whether article 1, paragraph 2, of the Convention, establishing a distinction between citizens and non-citizens, is compatible with the principles of equality and non-discrimination*. The ILO Committee of Experts on the Application of Conventions and Recommendations should consider the same matter with regard to ILO Convention No. 111.

36. The ILO and the Office of the High Commissioner/Centre for Human Rights should cooperate in the development of training programmes for countries whose officials, employers, trade unions and associations are in contact with immigrants in order to combat discriminatory behaviour and eliminate ill-treatment of migrants.

37. These and other intergovernmental bodies concerned with migration, such as the International Organization for Migration (IOM), should also make appropriate provision in their technical cooperation programmes.

38. The Committee on the Elimination of Racial Discrimination should ensure that, when appropriate, States parties to the International Convention on the Elimination of All Forms of Racial Discrimination report fully on measures to protect the rights of migrant workers, including contract workers.

39. Many countries provide consular support to migrants of their nationality and in this way come to learn about discriminatory practices. States may wish to determine whether there is any basis on which consular information might be fed into the process by which treaty bodies monitor implementation. The Eighth Meeting of Persons Chairing Human Rights Treaty Bodies is recommended to consider this matter.

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* Mr. Banton dissociated himself from this recommendation.

40. In view of the particularly disturbing situation of female migrants, the Committee on the Elimination of Racial Discrimination is encouraged to pay greater attention to gender perspective in its work.

41. The oversight mechanisms for the implementation of the various international human rights instruments, including the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, should include the question of migrant workers in their consideration of reports from the States parties concerned; they should also have at their disposal beforehand information from trustworthy sources to help them come to grips with the problem.

42. In the event of flagrant human rights violations, a degree of pressure should be exerted on the State or States responsible. Here the 1503 procedure of the Sub-Commission on Prevention of Discrimination and Protection of Minorities could be useful if employed by the organizations or individuals concerned.

43. The Sub-Commission should instruct its Working Group on Minorities to take up the question of migrants, which would then be among the matters studied by the Group.

44. The Seminar welcomes the establishment of a Commission on Human Rights working group on migrant workers and human rights. The Working Group should use information submitted by States parties to the International Convention on the Elimination of Racial Discrimination. There should be no duplication of activity on the part of the Working Group and the Committee on the Elimination of Racial Discrimination.

45. National and international NGOs, trade unions and immigrant associations should report to the mechanisms monitoring the implementation of the human rights conventions, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the situation with regard to racial discrimination against migrants. These bodies should take account of the information received, even if it comes from organizations not in consultative status and, if necessary, they should give such organizations the opportunity to participate in their work.

Role of the media

46. The Seminar recognized the important role that the media plays in helping a society either to combat or to embrace racism and racial discrimination. Further legal study should be encouraged on the relationship between freedom of expression and the responsibility of limiting expressions of racial hatred harmful to a society. The Seminar commended representatives of the mass media and media trade unions who have cooperated in drawing up codes of practice in this area.

47. The mass media can be extremely effective, nationally and internationally, in protecting migrants. They should, inter alia, play an active part in the United Nations Decade for Human Rights Education, informing migrants of their rights, of which they are usually unaware, and bringing to public attention any situation involving discrimination or violations of human

rights law. They should also make it their increasing practice to broadcast the comments, criticisms and recommendations of the treaty bodies.

48. The reports prepared by the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, and the debates on those reports in the Commission on Human Rights and the Sub-Commission, should also be widely discussed and disseminated by the mass media.

49. The Office of the High Commissioner for Human Rights/Centre for Human Rights should give priority to, and develop, the suggestion, in paragraph 10 of the Programme of Action, of a seminar on the role of the mass media in combating racism. The current priority is to encourage feelings of solidarity with immigrants and their children and a willingness to defend their rights to equality of treatment. The mass media themselves should be persuaded to contribute to the funding of such an event, aiming at a big publicity-attracting conference, not an in-house seminar.

Protection of immigrants against discrimination in access to employment. Activities of the International Labour Organization (ILO)

50. The Seminar draws the attention of States to the important work being conducted by ILO on discrimination against migrant workers; it calls upon States to support ILO in developing this programme and in providing advice to its member States on how to combat discrimination in employment more effectively.

Report of the Seminar

51. The report of the Seminar should be submitted to the General Assembly and to the Working Group on Migrant Workers of the Commission on Human Rights; it should be issued in booklet form and widely distributed. The Commission on Human Rights should pay particular attention to implementing the conclusions and recommendations made in this report.

Annex II

LIST OF PARTICIPANTS

Experts

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Mr. Michael Banton	Chairman, Committee on the Elimination of Racial Discrimination
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Mr. Jean-Pierre Page	Officer-in-charge of international relations and union activities, Confédération générale des travailleurs (France)
Mrs. Halima Embarek Warzazi	Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities
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